

Assembly Bill No. 2250

CHAPTER 452

An act to add Section 4060 to the Food and Agricultural Code, and to amend Section 18000.5 of the Government Code, relating to public employment.

[Approved by Governor September 27, 2008. Filed with
Secretary of State September 27, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2250, Sharon Runner. Public employment: outside compensation.

Existing law authorizes an officer or employee of the state to receive compensation from a nonprofit corporation formed exclusively to aid and assist a state museum for services rendered to the nonprofit corporation and for expenses of performing those services if the nonprofit corporation obtains prior written approval of the Department of Personnel Administration and files a specified statement with the Controller. Existing law prohibits Members of the Legislature, state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

This bill would, in addition, authorize an officer or employee of the state to receive compensation from a nonprofit corporation formed exclusively to aid and assist a district agricultural association, as specified. The bill would require the nonprofit corporation to file the specified statement with the Controller and the Department of Personnel Administration, and would require any subsequent changes to the compensation for any officer or employee provided under this provision to be approved by the Department of Personnel Administration. This bill would require any nonprofit corporation that compensates an officer or employee of the state, as provided, to notify the Division of Fairs and Expositions of the Department of Food and Agriculture, and would require approval of that compensation by the division prior to payment. The bill would also require the Department of Food and Agriculture, during regular audits, to review the payments from the nonprofit corporation to any state employees and those state employees' responsibilities to the nonprofit corporation, as specified. The bill would also prohibit a state officer or employee of an association from being compensated by the nonprofit corporation when that state officer or employee acts in an official capacity with regard to any contract made with the nonprofit corporation.

The people of the State of California do enact as follows:

SECTION 1. Section 4060 is added to the Food and Agricultural Code, to read:

4060. (a) Any compensation to any officer or employee of the state by any nonprofit corporation formed exclusively to aid and assist an association, as provided for in Section 18000.5 of the Government Code, shall be approved by the Division of Fairs and Expositions prior to payment. The nonprofit corporation shall notify the division of the compensation.

(b) The department shall, during regular audits, review the payments from the nonprofit corporation to any state employees and those state employees' responsibilities to the nonprofit corporation. The financial information from the nonprofit corporation shall be made available to the department for the audit. Any compensation shall be justified by related work that is not the normal responsibility of the state officer or employee through his or her employment by an association, including his or her normal duties and working hours. The audit shall also determine if any board member serving on an association is also serving on the board of directors of the related nonprofit corporation and determine if there are any conflicts of interest regarding the payment to the association employees. The audit shall also determine if any officer or employee is receiving compensation from the nonprofit corporation in violation of subdivision (c).

(c) Pursuant to Section 1090 of the Government Code, a state officer or employee of an association shall not be compensated by the nonprofit corporation when that state officer or employee acts in an official capacity with regard to any contract made with the nonprofit corporation.

SEC. 2. Section 18000.5 of the Government Code is amended to read:

18000.5. (a) Notwithstanding Sections 18000 and 19990, any officer or employee of the state may receive for his or her personal use compensation from any nonprofit corporation formed exclusively to aid and assist an entity described in subdivision (b) for services rendered to the nonprofit corporation and for his or her expenses of performing these services, provided that the nonprofit corporation obtains the prior written approval of the Department of Personnel Administration to provide the compensation to any officer or employee and files with the Controller and the Department of Personnel Administration by September 30 of each year a statement disclosing the names of state officers and employees compensated and their respective amounts of compensation for the preceding fiscal year, and the giving or receipt of the compensation is not in violation of any state or federal law. Any subsequent changes to the compensation for any officer or employee provided under this section must be approved by the Department of Personnel Administration.

The board of directors of the entities described in subdivision (b) shall determine whether the services are incompatible with the state responsibilities of the officer or employee and whether the services rendered to the nonprofit corporation interfere with the officer's or employee's full-time obligation to the state. The board of directors of the entities

described in subdivision (b) also shall review any issues of compliance of the nonprofit corporation with the terms of any contractual arrangements with the state independently of the officer's or employee's receiving compensation from the nonprofit corporation.

(b) Any officer or employee of the state may be compensated, as described in subdivision (a), by a nonprofit corporation formed to aid and assist any of the following entities:

- (1) A state museum.
- (2) A district agricultural association, as provided for in Section 3951 of the Food and Agricultural Code.